

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

SHOP IRONWORKERS LOCAL 790  
PENSION TRUST et al.,

Plaintiffs

v.

COFAB STEEL CORPORATION et al.,

Defendants

No. C-06-4067 MMC

**ORDER DENYING MOTION TO  
ENFORCE SETTLEMENT**

(Docket No. 30)

Before the Court is plaintiff's motion, filed March 22, 2007, to enforce a December 19, 2006 settlement agreement that purported to resolve the instant action between plaintiffs Shop Ironworkers Local 790 Pension Trust, Joint Board of Trustees of the Shop Ironworkers Local 790 Pension Trust, and Michael Newington as Trustee, and defendants Cofab Steel Corporation ("Cofab"), Arcmatic Integrated Systems, Inc. ("Arcmatic"), Charles Bock, and Irma Bock. No opposition to the motion has been filed.<sup>1</sup> Having considered the papers filed in support of the motion, the Court finds the matter appropriate for resolution without oral argument, see Civil L.R. 7-1(b), hereby VACATES the May 18, 2007 hearing, and rules as follows.

Federal courts generally lack subject matter jurisdiction to hear a motion to enforce a

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<sup>1</sup> On March 27, 2007, defendants' counsel filed an ex parte application to withdraw as counsel and for extension of the deadline for defendants to respond to the instant motion. In an order filed March 28, 2007, the Court granted the application and extended to April 27, 2007 the deadline for defendants to respond to the instant motion. The court cautioned defendants that Cofab and Arcmatic could not appear in the instant action without counsel; to date, however, no defendant has filed a substitution of counsel and, as noted, none has responded to the instant motion.

1 settlement agreement in the absence of an independent jurisdictional basis with respect to  
 2 the motion. See Kokkonen v. Guardian Life Ins. Co. of America, 511 U.S. 375, 378 (1994)  
 3 (“Enforcement of [a] settlement agreement, . . . whether through award of damages or  
 4 decree of specific performance, is more than just a continuation or renewal of the  
 5 dismissed suit, and hence requires its own basis for jurisdiction.”). Here, no such  
 6 independent jurisdictional basis is asserted.

7 Further, there is no basis here for the exercise of ancillary jurisdiction. A court has  
 8 ancillary jurisdiction to enforce a settlement agreement if “the parties’ obligation to comply  
 9 with the terms of the settlement agreement [has] been made part of the order of dismissal –  
 10 either by separate provision (such as a provision ‘retaining jurisdiction’ over the settlement  
 11 agreement) or by incorporating the terms of the settlement agreement in the order.” See  
 12 id. at 381. Here, however, the Court did not retain jurisdiction over enforcement of the  
 13 settlement agreement, and, consequently, the Court does not have ancillary jurisdiction  
 14 over the instant motion.

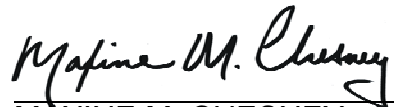
15 Lastly, the settlement itself does not provide for a motion to enforce. Rather, the  
 16 settlement expressly provides that if defendants breach the settlement agreement, plaintiffs  
 17 “shall be permitted to file a Complaint in the United States District Court, Northern District  
 18 for the purpose of having Judgment entered for the full assessed amount, plus liquidated  
 19 damages, interest and attorneys['] fees and costs, less any payments made by the  
 20 Arcmatic Parties.” (See McCulloch Decl. ¶ 1 and Ex. A (Settlement Agreement) ¶ 2.1(c)  
 21 (emphasis added).)<sup>2</sup>

22 Accordingly, the instant motion is hereby DENIED.

23 This order terminates Docket No. 30.

24 **IT IS SO ORDERED.**

25 Dated: May 8, 2007

26   
 27 MAXINE M. CHESNEY  
 28 United States District Judge

29 \_\_\_\_\_  
 30 <sup>2</sup> The Court expresses no opinion as to whether the district court would have subject  
 31 matter jurisdiction over such a suit.